LIBRARY
SUPREME COURT, U. S.

Supreme Court, U. S.
FILED
JAN 8 1976
MICHAEL RODAK, JR., CLERK

# In the Supreme Court of the United States

OCTOBER TERM, 1975

---

No. 75-392

---

WILLIAM BROWN BURCH,
*Petitioner,*

vs.

UNITED STATES OF AMERICA,
*Respondent.*

---

## PETITION TO REHEAR ON BEHALF OF WILLIAM BROWN BURCH, PETITIONER

---

DALE QUILLEN
308 Cavalier Building
95 White Bridge Road
Nashville, Tennessee 37205
*Attorney for Petitioner*

E. L. MERIDIETHALL, INC., 926 Cherry Street, Kansas City, Mo. 64106, 421-3030

# In the Supreme Court of the United States

OCTOBER TERM, 1975

---

**No. 75-392**

---

WILLIAM BROWN BURCH,
*Petitioner,*

vs.

UNITED STATES OF AMERICA,
*Respondent.*

---

## PETITION TO REHEAR

Comes the petitioner, William Brown Burch, and respectfully petitions the Court to rehear his Petition for Writ of Certiorari heretofore denied on December 15, 1975, pursuant to Rule 58[2] of the Rules of this Court, and for grounds would show that the Memorandum of the United States in opposition in this case stated that the Petitioner had not challenged on appeal the instruction whose validity is the subject of the Petition and that the Court should accordingly follow its usual practice of not considering issues not raised in the lower Courts.

Petitioner would show that this was an incorrect statement on the part of the Solicitor General and attaches hereto on appendix page A1 a letter dated December 15, 1975 conceding such error.

Wherefore, Petitioner prays that he be granted a rehearing in this cause.

Respectfully submitted,

DALE QUILLEN
*Attorney for Petitioner*

## CERTIFICATE

Dale Quillen, attorney for petitioner, respectfully certifies to the Court that this Petition for Rehearing is presented in good faith and not for delay, and the Petition is restricted to the grounds above specified.

DALE QUILLEN

## CERTIFICATE OF SERVICE

I, Dale Quillen, hereby certify that I have this 6th day of January, 1976, caused three copies of the foregoing Petition to Rehear to be served upon the Honorable Robert H. Bork, Solicitor General, Department of Justice, Washington, D.C. 20530.

DALE QUILLEN

## APPENDIX

OFFICE OF THE SOLICITOR GENERAL
Washington, D.C. 20530

December 15, 1975

Honorable Michael Rodak, Jr.
Clerk
Supreme Court of the United States
Washington, D.C. 20543

Re: Burch v. United States (No. 75-392)

Dear Mr. Rodak:

In the Memorandum for the United States in Opposition in this case, in which certiorari was denied today, the government stated (p. 3) that the petitioner had not challenged on appeal the instruction whose validity is the subject of the petition and that the Court should accordingly follow its usual practice of not considering issues not raised in the lower courts. It has come to our attention, however, that petitioner did raise the point in a petition for rehearing in the court of appeals. This fact, however, did not affect the validity of either the other point made in the same paragraph on page 3—that the issue is not properly presented because petitioner did not object to the charge at trial—or our argument on the merits (pp. 3-6) that the charge was proper.

Would you please distribute copies of this letter to the Court.

Sincerely,

Robert H. Bork
Solicitor General

cc: Dale M. Quillen, Esquire
308 Cavalier Building
95 White Bridge Road
Nashville, Tennessee 37205